THE HON'BLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.17253 of 2003

ORAL ORDER: (per G.B. J.,)

The Writ Petition is filed challenging the order passed by the A.P. Administrative Tribunal (for short Tribunal) in O.A.No.6280 of 2001, dated 2-7-2003.

2. The matter relates to compassionate appointment. The deceased-employee, who was working as Senior Assistant, died on 22-12-1994 and thereafter an application was made for the appointment of his second son and accordingly appointment order was issued, but, however, he could not join as he was involved in a criminal case for the offence punishable under Section 302 I.P.C. Therefore, the said appointment was cancelled. The said criminal case was prosecuted against all the members of the family by the trial Court and convicted all of them, but, however, on appeal filed before this Court, all other accused, except the second son of the deceased-employee, were acquitted. Therefore, a representation was made for appointment of the first son of the deceased-employee under compassionate appointment scheme. The said representation was rejected by the authorities, against which the above O.A. was filed before the Tribunal and the Tribunal has considered this matter in para 6 of its order, which reads thus:

> "The 1st applicant is the wife of a deceased government employee who died on 22-12-1994 while in service. The 2nd applicant is the first son of the deceased employee. After the death of her husband, the 1st applicant made an application seeking appointment to her second son on compassionate grounds as the first son is living separately after the marriage. This means that the first son is having a means of livelihood to live independent of his parents. The 1st respondent appointed the 2nd son of the 1st applicant as Junior Assistant through his proceedings dated 5.8.1996.

But before the second son of the 1st applicant could join duty, it was made known that he was involved in a criminal case. Thereupon, the 1st respondent cancelled the appointment of the 2nd son of the 1st applicant through proceedings dated 13.11.1996. Later, the 1st applicant made another representation dated 22-7-2000, seeking compassionate appointment to her first son i.e., the 2nd applicant herein, as she is living with him after her second son was convicted in a criminal case. When no action was taken on her representation, she filed O.A.No.5491/2001, wherein orders were issued by the Tribunal on 10.8.2001, directing the respondents to pass appropriate orders on the representation of the applicant in accordance with the rules. The 1st respondent passed the order dated 23.8.2001, which is impugned in this O.A. The 1st applicant is getting the family pension. The 2nd applicant who is the first son of the 1st applicant evidently has independent means of income when he started living separately even while his father was alive and was in Government service. The death of the government employee occurred in the year 1994 over which event, a claim for compassionate appointment of some one in the family arises. The compassionate appointment scheme is a scheme to immediately relieve the family of a deceased government employee from harness and financial distress but not a scheme aimed at giving employment to anyone in the family of the deceased government employee at any time somehow or the other. The scheme cannot be taken as one which guarantees employment to someone in the family. In the instant case, when the Government employee died during the year 1994, the official respondents appointed the 2nd son of the deceased employee in the year 1996 and cancelled his appointment before his joining the post as he was found to be involved in a criminal case. The request of the 1st applicant who is the wife of the deceased employee to appoint her 1st son i.e., the 2nd applicant herein, under the compassionate appointment scheme in the year 2000 is based on a misconceived ambition in the matter of compassionate appointment scheme, as already discussed above".

Against the said order, the present Writ Petition has been filed.

3. The learned counsel for the petitioners submits that under the peculiar facts and circumstances of the case, the petitioners could not approach the Tribunal within time and therefore denying appointment would virtually further place the entire family in financial distress and therefore the order passed by the Tribunal is liable to be set aside. We have also heard the learned Government Pleader for Services-I.

4. The reasons given by the Tribunal are quite justified. The very scheme of the compassionate appointment is to see that the family of the deceased employee would not be subjected to financial distress. In this case nearly ten years after the death of the deceased employee, the representation was made for compassionate appointment, though mentioning some grounds, but at this point of time it cannot be said that still the family is suffering under financial distress. Basing on such representations, if the orders of compassionate appointment are passed, it would frustrate the very scheme of compassionate appointment. Thus, we do not find any illegality or irregularity in the order of the Tribunal.

5. In the result, the Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.,

1st September, 2003.

(GOPALA KRISHNA TAMADA, J.,)

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